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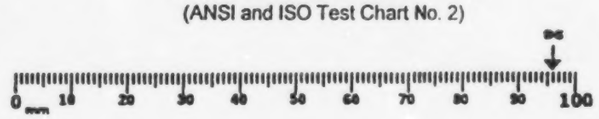

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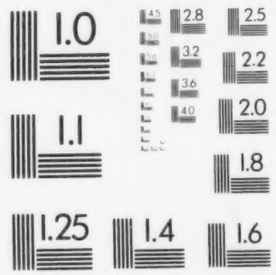

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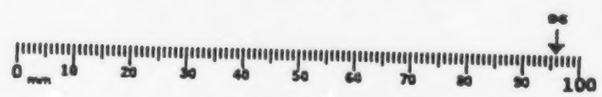

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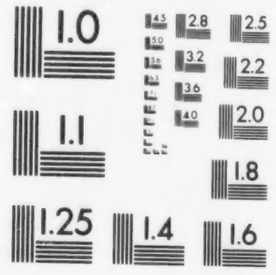

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First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Lyackson First Nation

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MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Lyackson First Nation

Research and writing by:	Diana Jolly
Edit by:	JOL Consulting
Review by:	Gary W. Robinson
Prepared for publication:	February, 2000

Canadian Cataloguing in Publication Data
Jolly, Diana.
First Nations water rights in British Columbia. A historical summary of the rights of the Lyackson First Nation

ISBN 0-7726-4182-X

1. Water rights - British Columbia - Portier Pass Indian Reserve No. 5. 2. Coast Salish Indians - British Columbia - Valdes Island - Government relations. I. JOL Consulting (Firm) II. Robinson, Gary W. III. British Columbia. Water Management Branch. IV. Title. V. Title: Historical summary of the rights of the Lyackson First Nation.

KEB529.5.W3J66 2000 346.71104'32 C00-960100-7
KF8210.W38J66 2000

ACKNOWLEDGMENTS

The Ministry of Environment, Lands and Parks wishes to acknowledge three partners whose contributions were invaluable in the completion of the *Aboriginal Water Rights Report Series:*

The Ministry of Aboriginal Affairs, was a critical source of funding, support and direction for this project.

The U-Vic Geography Co-op Program, was instrumental in providing the staffing resources needed to undertake this challenging task. Through the services of June Whitmore and her office, the project benefited from the research, writing, editing and co-ordination of these outstanding students:

Jas Gill
Julie Steinhauer
Kelly Babcock
Daniella Mogus
Miranda Griffith
Christina Rocha
Rachel Abrams
Elizabeth Lee
Sara Cheevers

The services of Clover Point Cartographics Limited of Victoria, was responsible for the preparation of most of the map drawings, which form a valuable part of these documents.

In addition to these three key partners, I must acknowledge the valuable contributions of other Water Management staff, past and present, including jack Farrell, Jim Mattison, Richard Penner, Diana Jolly, Greg Blaney, Gary Lucas and Kim Johnston.

The sheer numbers of First Nations groups' with histories of water rights made the completion of the Report Series seem, at times, prolonged. The determination, patience and vision of the partners was essential in the completion of the Series and is gratefully acknowledged.

Gary Robinson
Project Manager
Water Management Branch

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1. TABLE: Summary of Water Rights Records for the Lyackson Band.
2. COPY OF LICENCE AND PLAT (Conditional Water Licence 27946).
3. STREAM REGISTER REPORT (Verchere Spring).
4. COPY OF THE DATA SUMMARY OF GROUNDWATER RECORDS IN THE LYACKSON RESERVES AREA.
5. MAP: Lyackson Reserves and area

FIRST NATIONS WATER RIGHTS REPORT

BAND: Lyackson

ADDRESS: RR 6, 5360 Smith Road, Duncan B.C., V9L 4T8

CHIEF: Richard Thomas

PHONE: 746-0780 **FAX:** 746-0780

AFFILIATION: Hul'qumi'num Tribal Council

LOCATION:

The Lyackson Band occupies three reserves located on Valdes Island, one of the Gulf Islands near the southeast end of Vancouver Island. Valdes Island is north of Galiano Island and south of Gabriola Island.

These reserves are:

- Lyacksun 3 - a 710.6 hectare reserve located at the north end of Valdes Island.
- Portier Pass 5 - a 2 hectare reserve located at the south end of Valdes Island.
- Shingle Point 4 – a 32 hectare reserve located on the mid-west side of Valdes Island.

These reserves sit at elevations ranging from sea level to 142 metres above sea level, and experience a climate ranging from an average daily temperature of 0 to 5 degrees centigrade in January to 16 to 20 degrees centigrade in July. The average annual rainfall for this area is 100 to 250 centimetres.

The most recent population figures from the Ministry of Finance show the Lyackson Band to have a population of 24 persons living on reserve as registered members. It's total population, including registered and non-registered members living on reserve, on crown land and off reserve is 171.

Water courses of significance include:

- Verchere Spring, which is located northwest of Portier Pass 5 Reserve.

WATER ALLOCATIONS:

There is no record of any allocations of water made by the Indian Reserve Commission with respect to the Lyackson Band. Similarly, there is no record of an allocation by an Order in Council of the Lieutenant Governor in Council, nor any orders of the Board of Investigation. However, water rights of the Lyackson Band have been recorded or affected by two actions of government over the years:

1) Granting of water licences from Federal Government application for licences for the use of water on reserves.

2) Actions to amend rights under licence pursuant to provisions in the *Water Act.*

HISTORY, CURRENT STATUS, AND NOTES:

No indication has ever been made of any water licences having been granted to the Lyackson Band with respect to Lyacksun 3 or Shingle Point 4. In addition, no evidence is available to indicate that any allocation of water rights to these reserves has been intended.

The history of water rights, the current status of rights and notes for the Lyackson Band with respect to Portier Pass 5 are as follows:

PORTIER PASS #5

Verchere Spring

History:

Apr 1, 1963 The Comptroller of Water Rights issued Conditional Water Licence 27946 to Indian Affairs Branch in accordance with an application filed by the same office. This licence was give a date of precedence of December 6, 1962, and authorized the diversion of 500 gallons of water a day from Verchere Spring for domestic purpose on Portier Pass Indian Reserve No.5,Valdes Island.

Indian Affairs had originally applied for water rights on Verchere Spring on September 4, 1962; however, the Branch reapplied on December 6, 1962. The Comptroller of Water Rights requested that Indian Affairs Branch reapply as notices of application had not been posted in the required time.

Indian Affairs applied for the right to divert 4,000 gallons of water a day; however, the Engineer's Report for Conditional Water Licence 27946

recommended a lesser quantity be authorized as it was doubtful the source could supply even 500 gallons a day

Current Status:

Conditional Water Licence 27946, in the name of the Lyackson Band, is the only active licence on Verchere Spring. There is no recent information on file with respect to the exercise of rights under this licence.

Water Survey of Canada has no streamflow records for Verchere Spring.

Notes:

1. Conditional Water Licence 27946 authorizes the diversion of a lesser quantity of water than what was originally applied for.

OTHER INFORMATION:

Alternate Water Sources:

i) Groundwater Records:

Review of the records of the Groundwater Section finds evidence of one well on Shingle Point Reserve 4. There is no groundwater information reported for Lyacksun 3 or Portier Pass 5. The well on Shingle Point 4 yields two gallons of water a minute. The extent to which the well is utilized at this time is unknown and as provision of this information is voluntary, it cannot be assumed to be complete.

ii) Municipal Water Sources:

At this time the potential for water supply from a municipality is limited as there are no municipal water systems in the proximity of the Lyackson Reserves.

Summary of Water Rights Records								
Lyackson First Nation								
Water Source	**Priority Date**	**Reserve Name**	**File No.**	**Document Type**	**Status**	**Superceded By**	**Licence PUC/MOD & OIC Allotments**	**Comments**
Verchere Spring	1962/12/06	Portier Pass #5	0245915	C 27946	Current		500 GD/Domestic	CL27946 authorizes the diversion of a lesser quantity of water than what was originally applied for.

THE GOVERNMENT OF
THE PROVINCE OF BRITISH COLUMBIA

WATER RIGHTS BRANCH

DEPARTMENT OF LANDS, FORESTS, AND WATER RESOURCES

ORDER

WATER ACT

Section 15

File No. 0245915

The provisions of the B. C. Water Act having been complied with and being satisfied that no person's rights will be affected, I hereby extend the time for the completion of the works and for making beneficial use of the water authorized under Conditional Water Licence No. 27946 , Verchere Spring to the 31st day of December, 1967.

H. D. DeBeck,
Deputy Comptroller of Water Rights.

DATED at Victoria, B. C.,
this 15th day of February , 1965.

W.R.B. 42

WATER RESOURCES SERVICE
WATER RIGHTS BRANCH

DEPARTMENT OF LANDS, FORESTS,
AND WATER RESOURCES

THE PROVINCE OF BRITISH COLUMBIA – WATER ACT

CONDITIONAL WATER LICENCE

Department of Citizenship and Immigration, Indian Affairs Branch of Ottawa, Ontario

is/are hereby authorized to divert and use water as follows:—

(*a*) The source(s) of the water-supply is/are Verchere Spring.

(*b*) The point(s) of diversion is/are located as shown on the attached plan.

(*c*) The date from which this licence shall have precedence is 6th December, 1962.

(*d*) The purpose for which the water is to be used is domestic.

(*e*) The maximum quantity of water which may be diverted is 500 gallons a day,

and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(*f*) The period of the year during which the water may be used is the whole year.

(*g*) The land upon which the water is to be used and to which this licence is appurtenant is
Porlier Pass Indian Reserve No.5, Valdes Island.

(*h*) The works authorized to be constructed are sump and standpipes,

and they shall be located approximately as shown on the attached plan.

(*i*) The construction of the said works has been commenced, and shall be completed and the water beneficially used on or before the 31st day of December, 1964.

92G/SW · W½
R.M.

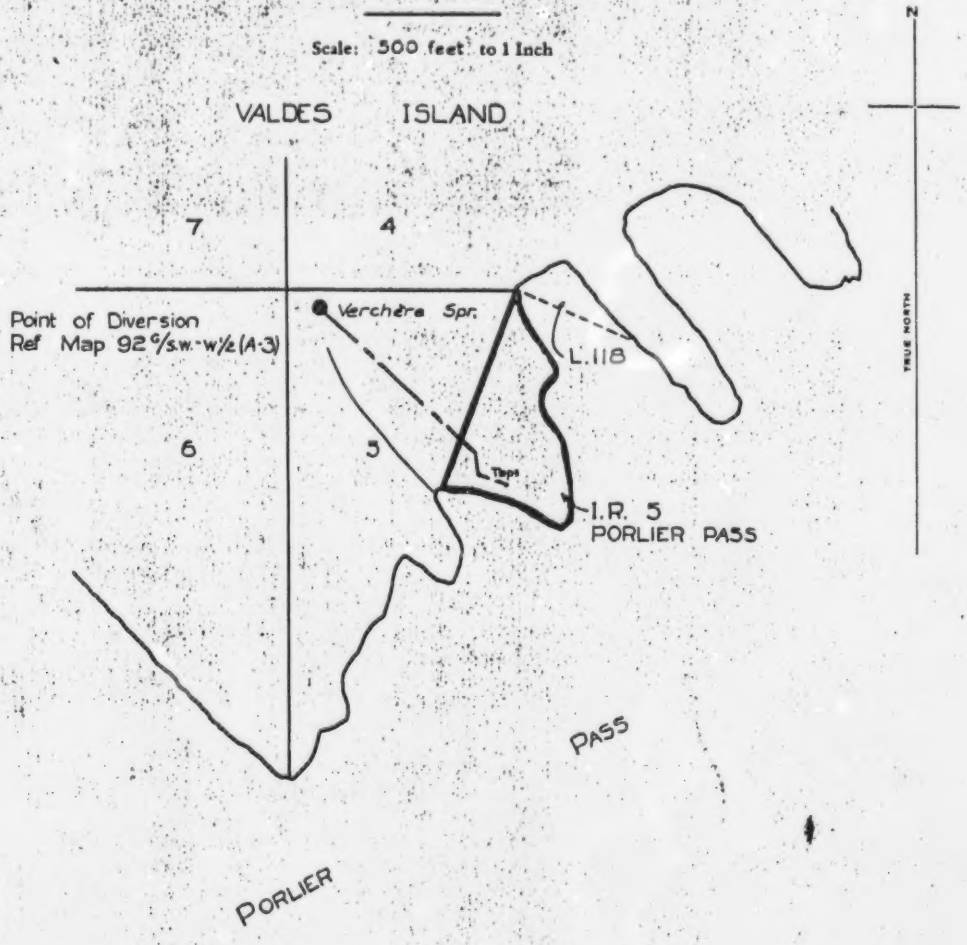
A. [illegible] Paget,
Comptroller of Water Rights.

FILE No. 0245915 Date issued: 1 April,1963 CONDITIONAL LICENCE No. 27946

British Columbia

NANAIMO WATER DISTRICT
NANAIMO DISTRICT

Scale: 500 feet to 1 Inch



LEGEND

Point of Diversion ●

Pipe ——— - ———

The boundaries of the land to which this licence is appurtenant are shown thus: ———

EXHIBIT "A"

Signature [signature]

Date 1 April 1963

C.L. 27946

File 0245915

Stream Register Report Water Licence Information System

Report Requested By : DJOLLY
Date Report Requested : 1996/07/02 09:30
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : PD30728 - 92G/4(a) C
END POINT : SO18995 - Verchere Spring

Priority YYYY/MM/DD	Licence Number	File Number	Appurtenancy	Licensee	FUC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
	Source		WR Map	POD	RED POD Comments				Prec	
1962/12/06	C027946	0245915	PORLIER PASS IR #5 NANAIMO DIST	VALDES I	LYACKSON INDIAN BAND 974-646-6813 BOX 1798 LADYSMITH BC V0R2E0	DOM	500.00 GD	Jan 01	Dec 31	
	Verchere Spring		WR92G/4(a)	C	N				17A NAN - NANAIMO	

---------- Total of 1 Licence Reported ----------

MINISTRY OF ENVIRONMENT, LANDS & PARKS

Water Rights Information System

Summary Report (with legal descriptions and old coordinates)

WELL4600 Production Operator Id SPINTO

BCGS Map Area	Well No.	Well Tag No.	Lot No.	Plan No.	Blk No.	TP	RC	RD	D.L.	Z	X	Y	Old Well No.	L.D.	Site Address	Date Constructed (dmy)	Well Depth (ft.)	Well Diam. (in.)	Drill Contr No.	Const. Method	Well Yield	Yld. Unt.	Depth to Water (ft.)	Depth to Bedrk (ft.)	Aquif Litho	Screen Interval (ft.)	S.W. Rpt	Chem Lab	Chem Fld	Chem Site No.
092G.002.2.4.3	001	000000050922								00	00	00	C01	33	SHINGLE POINT	07-09-1982	185.0	6.0	032	DRI	2.0	GPM	107	22	SED					

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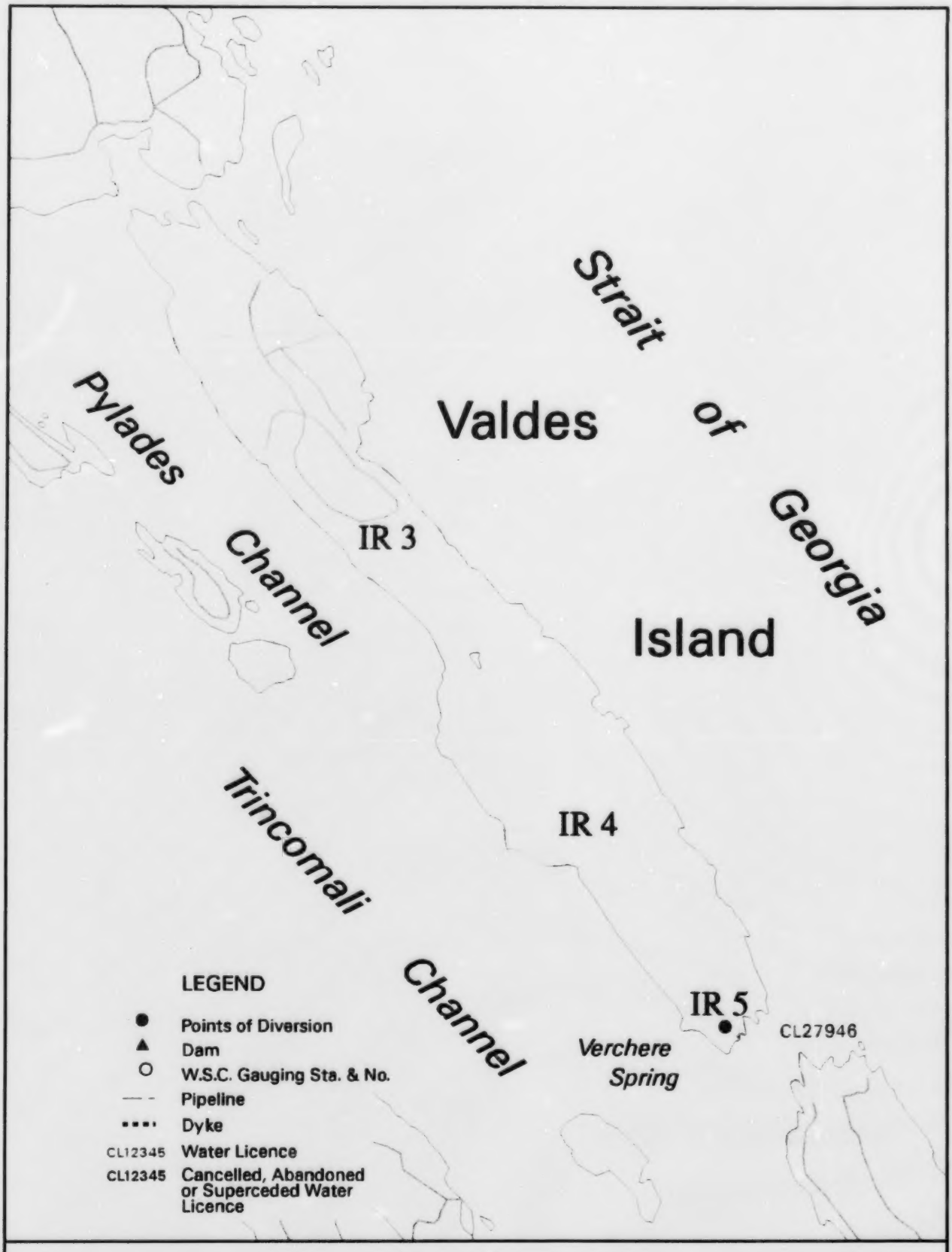

LYACKSON FIRST NATION

Scale: 1 : 75,000

Ministry of Environment, Lands & Parks | Date: February 2000 | Environment & Lands Division